

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

RENE-FABRICIO: DIAZ,  
JUAN-JOSE: VADO,  
Sramineus Homo, US Vessel

No. C-08-0835 MMC

**ORDER TO SHOW CAUSE WHY  
ACTION SHOULD NOT BE DISMISSED**

Libellant,  
v.

CITI BANK, US Vessel  
DOES, ROES, and MOES 1-100, et al.,  
US Vessel sand

Libellees,

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RENE-FABRICIO: DIAZ  
JUAN-JOSE: VADO  
Lien Holders of the Vessel, the Real Party  
In Interest, Lawful Man  
Injured Third Party Intervenor/ Petitioner/  
Libellant,

v.

CITI BANK, U.S. Vessel,  
DOES, ROES, and MOES 1-100, et al.,  
US VESSELS  
INDIVIDUALLY AND SEVERALLY  
Third Party Defendants/Libellees

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Before the Court is Rene-Fabricio Diaz and Juan-Jose Vado's (collectively,  
"petitioners") "Petition for Libel of Review of an Administrative Judgment" ("Petition"), filed

1 February 6, 2008.

2 Petitioners are individuals and have named a banking institution as a defendant. In  
3 the Petition, petitioners allege “all parties are U.S. Vessels and fit the legal definition of a  
4 U.S. Vessel,” (see Pet. ¶ 15), and “[t]he cargo is shipped via U.S. Postal Service and all  
5 parties are subject to the Postal Codes in this instant action,” (see id. ¶ 18). Petitioners  
6 also assert the “Law of the flag: Man is created in the image of God and to reduce a man to  
7 chattel against the national debt is an affront to God. Exodus, 13:16 and Genesis 1:27.”  
8 (See id. ¶ 10.)

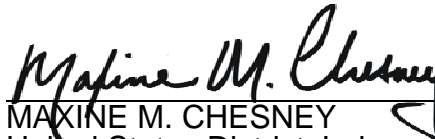
9 “A trial court may act on its own initiative to note the inadequacy of a complaint and  
10 dismiss it for failure to state a claim . . . .” Wong v. Bell, 642 F.2d 359, 361 (9th Cir. 1981)  
11 (citation omitted). Before such dismissal may be entered, the court ordinarily “must give  
12 notice of its sua sponte intention to invoke Rule 12(b)(6) and afford plaintiffs an opportunity  
13 to at least submit a written memorandum in opposition . . . .” See id. at 362 (internal  
14 quotation and citation omitted). Sua sponte dismissal under Rule 12(b)(6) “may be made  
15 without notice,” however, “where the claimant cannot possibly win relief.” See Omar v.  
16 Sea-Land Service, Inc., 813 F.2d 986, 991 (9th Cir. 1987) (citing Wong, 642 F.2d at 362).

17 Here, petitioners’ filing fails to allege any facts that could state a claim under either  
18 state or federal law. Further, and contrary to the title of petitioners’ pleading, petitioners fail  
19 to allege the existence of an administrative decision, let alone a decision that a court has  
20 jurisdiction to review. Nevertheless, the Court will provide petitioners an opportunity to  
21 respond to this order.

22 Accordingly, petitioners are hereby ORDERED TO SHOW CAUSE, no later than  
23 February 29, 2008, and in writing not to exceed five pages, why the instant action should  
24 not be dismissed for failure to state a claim.

25 **IT IS SO ORDERED.**

26  
27 Dated: February 12, 2008

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MAXINE M. CHESNEY  
United States District Judge